

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC, *et al.*,

Defendants.

Civil No. 1:18-cv-950 (LO / JFA)

MOTION TO SEAL

Pursuant to Rule 26 of the Federal Rules of Civil Procedure and Local Civil Rule 5(C), Defendants Cox Communications, Inc. and CoxCom, LLC (“Cox”) file this motion to seal portions of Cox’s Memorandum of Law In Support Of Its Motion For Relief From The Judgment Under Rules 60(b)(2) and 60(b)(3) And Request For Indicative Ruling Under Rule 62.1 (“Cox’s Memorandum of Law”) and Exhibits B, C, K, L, M, N, and Q thereto (“Sealed Material”) (ECF No. 750). The Sealed Material was designated Confidential and Highly Confidential – Attorneys’ Eyes Only under the Stipulated Protective Order in this case (ECF No. 58) (the “Protective Order”).

Exhibits K and N are documents that are currently subject to sealing orders issued in this case. The chart below lists the designating parties for each document and relevant sealing order.

Ex. No.	Document	Designation	Designating Party	Sealing Order
K	Rebuttal Expert Report of Dr. Nick Feamster, Ph.D.	Highly Confidential – Attorneys’ Eyes Only	Cox	ECF 517
N	Report of Barbara Frederiksen-Cross	Highly Confidential – Attorneys’ Eyes Only	Plaintiffs	ECF 517

Exhibit B is an excerpt from the deposition of Sam Bahun that has been designated Highly Confidential under the Protective Order by third-party MarkMonitor, Inc. (“MarkMonitor”).

Exhibit C is a document produced in this case bearing Bates number Plaintiffs_00286272 that has been designated Confidential under the Protective Order by Plaintiffs.

Exhibit L is an excerpt from the deposition of Dr. Nick Feamster that has been designated Highly Confidential under the Protective Order by Cox as it pertains to information MarkMonitor and/or Plaintiffs have designated as either Confidential or Highly Confidential.

Exhibit M is an excerpt from the deposition of Slawomir Paszkowski that has been designated Highly Confidential under the Protective Order by MarkMonitor.

Exhibit Q is a document produced in this case bearing Bates number HL_169 that has been designated Highly Confidential under the Protective Order by third-party Harbor Labs.

Cox takes no position on whether Exhibits B, C, L, M, or N are confidential. Rather, Cox moves to seal these documents based on Plaintiffs’ and MarkMonitor’s respective designations, or because the documents concern material that Plaintiffs and/or MarkMonitor have designated as either Confidential or Highly Confidential.

Exhibit Q was admitted in open court during the trial in this case as DX 130. ECF 630 at 343:21-23. Given that the exhibit was designated Highly Confidential by third-party Harbor Labs, and contains MarkMonitor information, Cox seeks to seal the underlying exhibit out of an abundance of caution.

Local Civil Rule 5(C) provides that “[w]hen a party moves to file material under seal because another party has designated that material as confidential, the party designating the material as confidential must file a response to the motion,” which includes:

1. “A statement why sealing is necessary, and why another procedure will not suffice, as well as appropriate evidentiary support for the sealing request.” L. Civ. R. 5(C)(2).
2. “References to the governing case law, an analysis of the appropriate standard to be applied for that specific filing, and a description of how that standard has been satisfied.” L. Civ. R. 5(C)(3).
3. “Unless permanent sealing is sought, a statement as to the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon unsealing.” L. Civ. R. 5(C)(4).
4. A proposed order.

Dated: January 11, 2022

Respectfully submitted,

s/ Thomas M. Buchanan

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2022, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users.

s/ Thomas M. Buchanan
Thomas M. Buchanan